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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 Case No. **2010-374**

12 In the Matter of the Accusation Against:

13 MARGARET M. NELSON,
AKA MARGARET MARIE NELSON,
14 AKA MARGARET M. MELLON,
AKA PEGGY MARIE PERINI,
15 AKA PEGGY MARIE MELLON,
AKA PEGGY NELSON
21 S Peak
16 Laguna Niguel, CA 92677

17 Registered Nurse License No. 415938

18 Respondent.

A C C U S A T I O N

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
24 of Consumer Affairs.

25 2. On or about August 31, 1987, the Board of Registered Nursing issued Registered
26 Nurse License Number 415938 to Margaret M. Nelson, aka Margaret Marie Nelson, aka Margaret
27 M. Mellon, aka Peggy Marie Perini, aka Peggy Marie Mellon, aka Peggy Nelson (Respondent).
28

1 The Registered Nurse License was in full force and effect at all times relevant to the charges
2 brought herein and will expire on September 30, 2011, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code (Code) unless otherwise indicated.

7 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
8 any licensee, including a licensee holding a temporary or an inactive license, for any reason
9 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

10 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
11 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
12 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
13 Code, the Board may renew an expired license at any time within eight years after the expiration.

14 STATUTORY PROVISIONS

15 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 7. Section 493 of the Code states:

20 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
21 the department pursuant to law to deny an application for a license or to suspend or revoke a
22 license or otherwise take disciplinary action against a person who holds a license, upon the
23 ground that the applicant or the licensee has been convicted of a crime substantially related to the
24 qualifications, functions, and duties of the licensee in question, the record of conviction of the
25 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
26 and the board may inquire into the circumstances surrounding the commission of the crime in
27 order to fix the degree of discipline or to determine if the conviction is substantially related to the
28 qualifications, functions, and duties of the licensee in question.

1 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
2 'registration.'"

3 8. Section 2761 of the Code states:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an
5 application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 "....

8 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
9 functions, and duties of a registered nurse, in which event the record of the conviction shall be
10 conclusive evidence thereof."

11 9. Section 2762 of the Code states in relevant part:

12 "In addition to other acts constituting unprofessional conduct within the meaning of this
13 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
14 chapter to do any of the following:

15 "....

16 "(b) Use . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to
17 himself or herself, any other person, or the public or to the extent that such use impairs his or her
18 ability to conduct with safety to the public the practice authorized by his or her license.

19 "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-
20 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
21 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
22 of this section, in which event the record of the conviction is conclusive evidence thereof."

23 REGULATIONS

24 10. California Code of Regulations, title 16, section 1444, states:

25 "A conviction or act shall be considered to be substantially related to the qualifications,
26 functions or duties of a registered nurse if to a substantial degree it evidences the present or
27 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
28 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

1 “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
2 subdivision (d) of Penal Code Section 11160.
3 “(b) Failure to comply with any mandatory reporting requirements.
4 “(c) Theft, dishonesty, fraud, or deceit.
5 “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
6 Penal Code.”

7 11. California Code of Regulations, title 16, section 1445 states, in relevant part:

8 “....

9 “(b) When considering the suspension or revocation of a license on the grounds that a
10 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
11 person and his/her eligibility for a license will consider the following criteria:

12 “(1) Nature and severity of the act(s) or offense(s).

13 “(2) Total criminal record.

14 “(3) The time that has elapsed since commission of the act(s) or offense(s).

15 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or
16 any other sanctions lawfully imposed against the licensee.

17 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
18 Penal Code.

19 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

20 COST RECOVERY

21 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(October 2, 2008 Criminal Conviction – DUI on March 8, 2008)**

3 13. Respondent's license is subject to discipline under Code sections 490 and 2761,
4 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the
5 qualifications, functions, and duties of a registered nurse, as follows:

6 14. On or about October 2, 2008, in the Superior Court, County of Orange, in the case
7 entitled *People of the State of California v. Margaret Marie Nelson, aka Peggy Marie Perini, aka*
8 *Peggy Marie Mellon, aka Peggy Nelson* (Laguna Niguel Facility Case No. 08SM01468),
9 Respondent was convicted by the Court on her plea of guilty to violating Vehicle Code section
10 23152(b) driving with a blood alcohol content greater than 0.08%, having an actual blood alcohol
11 concentration of .20 percent and more, by weight, in violation of Vehicle Code section
12 23538(b)(2), a misdemeanor.

13 15. The circumstances underlying the conviction were that on or about March 8, 2008, at
14 about midnight, a sheriff's deputy pulled up to the intersection of Acapulco and Golden Lantern
15 on a solid red light. When the deputy looked across the intersection, he saw Respondent
16 operating a vehicle that was stopped on the wrong side of the road waiting at the traffic signal.
17 The deputy spoke to Respondent and asked her if she was okay. While he spoke with
18 Respondent, the deputy could smell the odor of alcohol coming from her person. The deputy
19 noticed that Respondent's eyes were watery, and her pupils were dilated. Based on field sobriety
20 testing, the deputy arrested Respondent for driving under the influence. Respondent's
21 blood/alcohol testing revealed a blood alcohol concentration of .20 percent or more, by weight.

22 16. As a result of this conviction, Respondent was sentenced: to serve three years
23 informal probation; to pay a fine of \$390.00; to pay a state restitution fine totaling \$100.00; to pay
24 \$100.00 Probation Revocation Restitution fine, with the fine stayed, to become effective only
25 upon final revocation of probation; to pay a \$50.00 controlled substance lab fee; to pay a \$37.00
26 DUI lab/blood alcohol fee; to pay a security fee of \$20.00; and to enroll, attend and complete a 9
27 month first offender alcohol program; to attend and complete Mother's Against Drunk Driving
28

1 (MADD) Victim's Impact Panel; to report to Alcohol Liaison; and to use her true name and date
2 of birth only at all times.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

5 17. Respondent's license is subject to discipline under Code section 2761, subdivision
6 (a), for unprofessional conduct in that Respondent was convicted of a criminal offense involving
7 the consumption of alcohol as set forth in paragraphs 13 through 16 which are incorporated here
8 by this reference.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Alcohol Related Conviction)**

11 18. Respondent's license is subject to discipline under Code section 2762, subdivision
12 (c), in that Respondent was convicted of a criminal offense involving the consumption of alcohol
13 as set forth in paragraphs 13 through 16 which are incorporated here by this reference.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Using Alcohol to an Extent Dangerous to Self and Others)**

16 19. Respondent's license is subject to discipline under Code section 2762, subdivision
17 (b), in that Respondent used alcohol to an extent dangerous to herself and others as set forth in
18 paragraphs 13 through 16 which are incorporated here by this reference.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 415938, issued to
23 Margaret M. Nelson, aka Margaret Marie Nelson, aka Margaret M. Mellon, aka Peggy Marie
24 Perini, aka Peggy Marie Mellon, aka Peggy Nelson;

25 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
26 the investigation and enforcement of this case, pursuant to Business and Professions Code section
27 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 2/4/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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